

# EXHIBIT B



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,326	02/01/2005	Matthias Marke	112740-1047	5780
29177	7590	03/20/2008	EXAMINER	
BELL, BOYD & LLOYD, LLP P.O. BOX 1135 CHICAGO, IL 60690			COLUCCI, MICHAEL C	
		ART UNIT	PAPER NUMBER	
		2626		

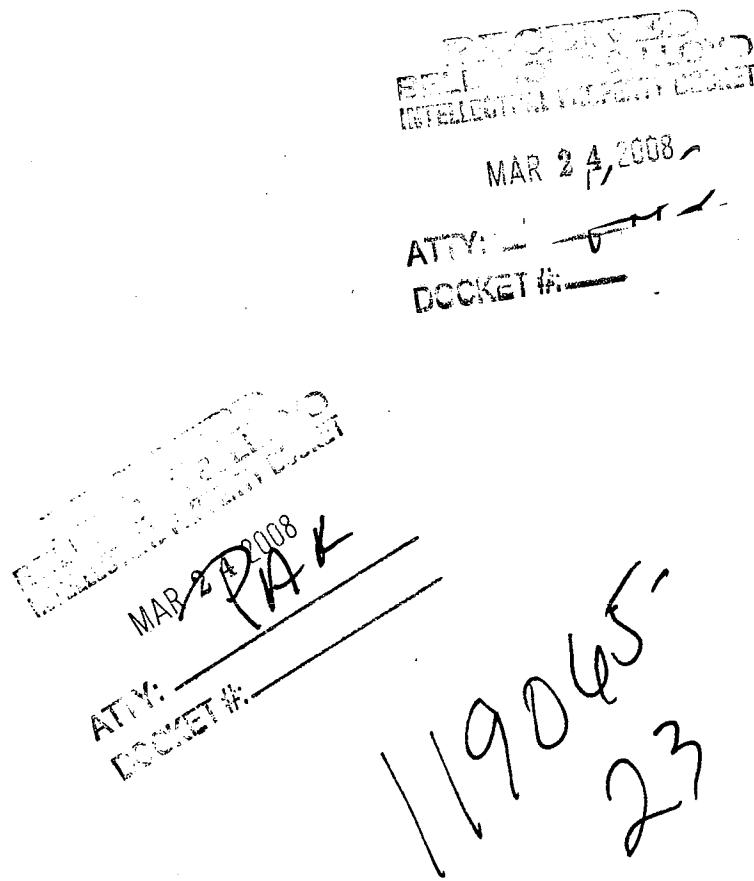
References Downloaded

MAIL DATE	DELIVERY MODE
03/20/2008	PAPER

Due: 6-20-08: *Final PAK*  
DPAK

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/523,326	MARKE ET AL.
	Examiner MICHAEL C. COLUCCI	Art Unit 2626

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 14-25 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 14-25 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01 February 2005 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 04/19/2005, 02/01/2005.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 14 and 25 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 14 and 25 contain the amended limitations "determining if the error concealment was performed" and "reliability information being indicative of whether the error concealment was performed" and are believed not to be found in the specification in view of the cited paragraph of the submitted remarks.

### ***Response to Arguments***

3. Applicant's arguments filed 01/24/2008 have been fully considered but they are not persuasive.

#### **Argument 1 (page 5 paragraph 4):**

- "Makinen and Chu, alone and in combination, fail to teach the foregoing claimed elements for at least the following reasons. Chu makes no mention of "error concealment." Makinen merely describes a method of

performing "error concealment." Makinen does not teach determining if the error concealment was performed by statistically analyzing received data as currently claimed. In addition, Makinen does not teach generating (or creating) reliability information indicative of whether the error concealment was performed as currently claimed"

**Response to argument 1:**

Examiner takes the position that Makinen in fact does teach whether error concealment has been performed, though not specifically written in the exact terms. Makinen teaches that most of the LTP-lag values in a corrupted frame are correct or erroneous can be correctly predicted with high probability. Thus, it is possible to adapt a very strict criterion for parameter concealment (Col. 10 lines 28-44).

ERROR?

Additionally, Makinen teaches that as the encoded bit stream is received at step 160, the frame is checked to see if it is corrupted at step 162. If the frame is not corrupted, then the parameter history of the speech sequence is updated at step 164, and the speech parameters of the current frame are decoded at step 166. The procedure then goes back to step 162. If the frame is bad or corrupted, the parameters are retrieved from the parameter history storage at step 170. Whether the corrupted frame is part of the stationary speech sequence or non-stationary speech sequence is determined at step 172. If the speech sequence is stationary, the LTP-lag of the last good frame is used to replace the LTP-lag in the corrupted frame at step 174. If the speech sequence is

non-stationary, a new lag value and new gain value are calculated based on the LTP history at step 180, and they are used to replace the corresponding parameters in the corrupted frame at step 182. (Col. 11 lines 30-47 & Fig. 4).

Further, Makinen teaches whether decoding/demodulation has been correctly performed, where error concealment will be performed relative to information (parameters, gain, lag, Etc.). Makinen teaches the use of feedback as a means to check if error concealment was correctly applied following decoding, thus verifying both decoding and error concealment for a data stream. If the data stream feeds the same data portion from the decoder back to the frame corruption check unit, then the error concealment was performed but errors were not concealed appropriately, where a good frame was not used accordingly, demonstrating that error concealment was not performed successfully for that iteration (Fig. 4).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 14-16 and 18-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Makinen et al US 6968309 B1 (herein after Makinen) in view of Chu et al US 6721707 B1 (herein after Chu).

Re claims 14-16 and 25, Makinen teaches a method for evaluating data containing useful information (Col. 13 line 34-46) received via a communication network (Col. 6 line 24-41)

determining if the error concealment was performed (Col. 11 lines 30-47 & Fig. 4) by evaluating and at least partially correcting (Col. 2 line 11-21), via a channel decoder (Makinen Col. 1- line 1-27), the data received

forwarding, via the channel decoder (Fig. 1), to a speech decoder (Col. 12 line 60-67) the data with characteristics of supplementary information (Fig. 4 '162') representing the data

(Supplementary information is construed as additional information gained from the signal such as whether or not errors/corruption are present within a frame of data from the speech)

decoding the data via the speech decoder (Col. 12 line 60-67) and, where necessary, performing error concealment (Col. 2 line 22-40 & fig. 2)

forwarding the data to a text (Col. 8 line 20-30) telephony receiver (Col. 12 line 1-11 & fig. 6 '330') via the speech decoder

generating, via the demodulator (Col. 12 line 1-11 & fig. 6 '330'), reliability information (fig. 4 & Col. 10 line 28-44) relating to the data received

(Reliability information is construed as the likelihood, probability, or even prediction that data will be properly decoded with no corruption/errors. Reliable information from a frame of speech is that long term predictions even when corrupted, have a high probability of being correctly predicted)

via a demodulator (Col. 12 line 1-11 & fig. 6 '330') in the text telephony receiver (Col. 12 line 1-11 & fig. 6 '330').

forwarding the data, via the demodulator (Col. 12 line 1-11 & fig. 6 '330'), with the reliability information (Fig. 4 & Col. 10 line 28-44) to an error correction (Col. 2 line 11-21) modulator (Col. 11 line 48-67)

correcting the data received, via the error correction (Col. 2 line 11-21) modulator (Col. 11 line 48-67), taking into account the reliability information (fig. 4 & Col. 10 line 28-44)

However, Makinen fails to teach evaluating the data received and analyzing the data statistically (Chu Col. 6 lines 54-67),

Chu teaches a signal processed during data communication that includes a statistical analysis unit for generating data and the frequency of errors. Chu also teaches that the statistical analysis includes bit error rate and energy level transmission between states. Chu teaches a link impairment monitor unit 300 observes the audio data signal on the return link of the data communication channel 231 for the presence of data transmission errors that are indicative of the presence of a link impairment. In particular, assuming that the two signal processors 200 and 205 are in the bypass mode and exchange compressed audio data information, the link impairment monitor unit 300

will observe each frame of compressed audio data information and control information for possible corruption of the data that is protected by parity or by any other suitable error detection scheme. When errors are detected, a statistical analysis is performed and the results of this analysis are stored in a data structure 302.

Further, Chu teaches energy level during negotiation (assuming bypass negotiation takes advantage/uses the energy profile). (19) The control unit 220 also comprises link error response unit 304 that is operative to react to the detection of a transmission error by the link impairment monitor unit 300, in dependence on the history of statistics maintained by the link impairment monitor unit 300 in the data structure 302. The link error response unit 304 also includes a data structure 306 that contains data elements representative of the operating condition(s) to be met to allow the signal processor 200 to switch to the bypass mode. The following is a non-limiting list of possible operating conditions: (20) Maximum number of bit errors during a certain time frame in the handshaking process; (21) A maximal time period allowed for completing a bypass handshaking procedure; (22) The minimal number of error-free control messages that must be exchanged during the handshaking procedure to consider the procedure successful; (23) Requiring a particular signal characteristic (such as energy level in the signal exchanged during the handshaking procedure).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention error concealment involving evaluating and analyzing data statistically. Statistical analysis allows for an increased probability when computing a decision in a data stream, where error concealment may be difficult to detect. by using

statistical means to detect error concealment, data can be processed faster and/or carefully by allocating a specific threshold of probability. Having statistically analysis increases the chances of transmission error detection on a frame by frame basis, where a probability can be in the form of energy (i.e. variance, standard deviation, etc).

Re claim 18, Makinen teaches a method for evaluating data containing useful information as claimed in claim 14, wherein the data is analyzed in a mobile station (Col. 5 line 51-67).

Re claim 19, Makinen teaches a method for evaluating data containing useful information as claimed in claim 14, wherein the data is transmitted over a cellular (Fig. 6 '330') mobile communication network (Col. 12 line 12-43).

Re claim 20, Makinen teaches a method for evaluating data containing useful information as claimed in claim 14, wherein for statistical (Chu Col. 11 line 24-35) detection of an error concealment (Col. 2 line 22-40 & fig. 2) by the speech decoder (Col. 12 line 60-67), time segments of frames (Col. 1 line 25-37) of the received useful information are analyzed.

Re claim 21, Makinen teaches a method for evaluating data containing useful information as claimed in claim 20, wherein the time segments (Col. 1 line 25-37) are analyzed in a text telephony demodulator (Col. 11 line 48-67).

Re claim 22, Makinen teaches a method for evaluating data containing useful information as claimed in claim 14, wherein the error correction (Col. 2 line 11-21)

modulator is located in (fig. 6 '340') the text (Col. 8 line 20-30) telephony receiver (Col. 12 line 1-11 & fig. 6 '330').

Re claim 23, Makinen teaches a method for evaluating data containing useful information as claimed in claim 14, wherein the data is encoded with Adaptive Multi Rate (Col. 2 line 22-40).

Re claim 24, Makinen teaches a method for evaluating data containing useful information as claimed in claim 14, wherein the useful information includes at least one of text, speech (Col. 8 line 20-30), picture and video signals.

**6. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Makinen et al US 6968309 B1 (herein after Makinen) in view of Chu et al US 6721707 B1 (herein after Chu) and further in view of Johnson US 6366578 B1 (herein after Johnson).**

Re claim 17, Makinen in view of Chu fail to teach a method for evaluating data containing useful information as claimed in claim 14, wherein the data is emergency call-related data (Johnson Col. 56 line 1-12).

Johnson teaches a multiple mode voice and data communication system with language capabilities, where backup communications using channels implement a telephone coupled for emergency voice calls or the like.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention data containing emergency call related data. Having an error

concealment scheme for emergency related calls allows for an optimized system, that can has the ability to process data faster to reduce a discrepancy during the communication of an emergency or any time essential situation.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6363381 B1, US 6618702 B1, US 20060222090 A1, US 20060282737 A1, US 20030142730 A1, US 4658436 A.
8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Colucci whose telephone number is (571)-

270-1847. The examiner can normally be reached on 9:30 am - 6:00 pm, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571)-272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Supervisory Patent Examiner, Art Unit 2626

<b>Notice of References Cited</b>		Application/Control No.	Applicant(s)/Patent Under Reexamination	
		10/523,326	MARKE ET AL.	
Examiner		Art Unit		Page 1 of 1
MICHAEL C. COLUCCI		2626		

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-4,658,436 A	04-1987	Hill, Terrance J.	380/31
*	B	US-6,363,381 B1	03-2002	Lee et al.	707/6
*	C	US-6,366,578 B1	04-2002	Johnson, Christopher Sean	370/353
*	D	US-2003/0142730 A1	07-2003	Lin, Yu-Chuan	375/147
*	E	US-6,618,702 B1	09-2003	Kohler et al.	704/250
*	F	US-6,721,707 B1	04-2004	Chu et al.	704/500
*	G	US-6,968,309 B1	11-2005	Makinen et al.	704/219
*	H	US-2006/0222090 A1	10-2006	Simmons et al.	375/259
*	I	US-2006/0282737 A1	12-2006	Shi et al.	714/746
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

10/523326  
DT12 Rec'd PCT/PTO 01 FEB 2005

<b>INFORMATION DISCLOSURE CITATION IN AN APPLICATION</b> (Use several sheets if necessary)	Atty Docket No. <b>112740-1047</b>	Application No. <b>PCT/DE2003/002498</b>
<b>Applicant</b> <b>Marke et al.</b>		
<b>Filing Date</b> <b>PTO Form 1449</b>	<b>Group</b>	

Examiner's Initials	OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)
/M.C./	XP-002261951 – Dorbecker et al., “The cellular text telephone modem – the solution for supporting text telephone functionality in GSM network”, 2001 IEEE International Conference on Acoustics, Speech, and Signal Processing, May 2001, pages 1441-1444

Examiner: /Michael Colucci/	Date Considered: 09/13/2007
<p>*Examiner: Initial if citation considered, whether or not citation is in conformance with MPEP Section 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.</p>	

<b>INFORMATION DISCLOSURE CITATION IN AN APPLICATION</b> (Use several sheets if necessary) PTO Form 1449		Atty Docket No.	Application No.
		112740-1047	10/523,326
		Applicant Marke et al.	
Filing Date 2-1-05	Group		

U.S. PATENT DOCUMENTS							
Examiner's Initials		Document Number	Publication Date	Inventor	Class	Subclass	Filing Date If Appropriate
/M.C./		5,699,405	12-16-97	Suzuki			

FOREIGN PATENT DOCUMENTS							
Examiner's Initials		Document Number	Publication Date	Country	Class	Subclass	Translation
							Yes No
/M.C./		WO 98/48531	10-29-98	PCT			

Examiner's Initials	OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)
/M.C./	XP-002261951 – Dorbecker et al., “The cellular text telephone modem – the solution for supporting text telephone functionality in GSM network”, 2001 IEEE International Conference on Acoustics, Speech, and Signal Processing, May 2001, pages 1441-1444
/M.C./	3GPP TS 26.226 V5.0.0 (2001-03) 3 <sup>rd</sup> Generation Partnership Project: Technical Specification Group Services and System Aspects; Cellular Text Telephone Modem; General Description (Release 5) pages 1-23
/M.C./	Bossert – 1992 pages 123-127 Informationstechnik Kanalcodierung
/M.C./	3GPP TS 26.071 V.5.0.0 (2002-06) 3 <sup>rd</sup> Generation Partnership Project; Technical Specification Group Services and System Aspects; Mandatory speech CODEC speech processing functions; AMR speech CODEC; General description (Release 5) pages 1-12
/M.C./	3GPP TS 26.093 V5.0.0 (2002-06) 3 <sup>rd</sup> General Partnership Project; Technical Specification Group Services and System Aspects; Mandatory speech codec speech processing functions Adaptive Multi-Rate (AMR) speech codec; Source controlled rate operation (Release 5), pages 1-28

Examiner: /Michael Colucci/	Date Considered: 09/13/2007
*Examiner: Initial if citation considered, whether or not citation is in conformance with MPEP Section 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.	